

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 6865**

**BILL NUMBER:** SB 260

**NOTE PREPARED:** Mar 20, 2006

**BILL AMENDED:** Mar 14, 2006

**SUBJECT:** Taxation.

**FIRST AUTHOR:** Sen. Kenley

**FIRST SPONSOR:** Rep. Espich

**BILL STATUS:** Enrolled

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** *Maximum Levy Banking:* This bill revises the formula for determining a civil taxing unit's maximum permissible levy to permit banking of unused levy capacity with restriction on recapture. It also requires the Department of Local Government Finance (DLGF) to recommend amendments to levy banking and recapture provisions.

*Maximum Levy Appeals:* The bill reduces the amount of assessed value growth that qualifies a civil taxing unit for an excessive levy appeal.

*Library Maximum Levy Increases:* This bill establishes increased maximum levies for the Dubois County Contractual Library and the Jasper Public Library.

*Fire Protection District Tax Levy:* The bill increases the maximum levy for certain fire protection districts that have experienced high assessed value growth.

*Township EMS Levy:* This bill authorizes an excessive levy appeal for certain townships to pay the costs of providing emergency medical services by paramedics.

*Hospital Funding:* This bill allows a county to impose a separate property tax levy that is subject to the county's levy limits to compensate a county hospital for providing emergency medical services.

*County Special Nonreverting Fund:* The bill permits a county auditor to establish a special nonreverting fund to receive additional property taxes attributable to a contract for the discovery of property that has been

undervalued or omitted from assessment.

**Reassessment Fund Transfers:** This bill provides that money in a property tax reassessment fund may not be transferred to any other fund.

**Delinquent Tax Collections:** This bill exempts delinquent tax collections from deposit in the excess levy fund.

**Certified Assessed Value:** This bill permits property tax rates to be calculated using a reduced assessed value for property to reflect the effects of pending property tax appeals.

**Amendments to Certified Statements:** The bill allows the county auditor to amend assessed valuation information provided to the DLGF and political subdivisions that is used to set property tax rates.

**Conforming Changes Related To Trending:** This bill requires an annual adjustment of the maximum rate of a school capital projects fund. It also provides that the base assessed value of property in a tax increment financing allocation area is adjusted each time an annual adjustment is made.

**Failure to Act on Appeal of Unit Budget:** The bill allows a taxpayer that initiated an appeal to the DLGF of a political subdivision's budget, rate, and levy to seek judicial review if the DLGF fails to act on the appeal in a timely manner.

**Reassessment of Sold Lots:** The bill specifies when a lot or tract held for sale in the ordinary course of trade or business may be reassessed for property tax purposes.

**Instructions for Sales Disclosure Forms:** The bill provides that information regarding certain property tax benefits available to owners of single-family residential property must be included in the instructions for completing the sales disclosure form used in transfers of real property interests.

**DLGF Rules for Assessment:** This bill provides that the DLGF rules for assessment of real property are not required to include instructions for determining depreciation or reproduction cost.

**Deadline for Property Tax-Related Filings:** The bill specifies when returns, other documents, and property tax payments are considered to be received for purposes of property tax statutes containing filing or payment deadlines. It changes the annual deadline for filing for various property tax benefits for individuals from May 10 to June 10. The bill also permits a personal property taxpayer to make an exemption claim up to 30 days after the return due date.

**Personal Property Assessment Error Correction:** If an assessing official discovers an overreported personal property assessment, this bill requires the official to correct the assessment.

**Property Tax Investment Deduction:** This bill provides that the investment deduction for personal property does not apply to certain personal property. It also allows the DLGF to adopt temporary rules to implement the investment deduction.

**Personal Property Tax Abatement-30% Floor:** For depreciable personal property eligible for tax abatement and subject to the 30% minimum valuation limitation, the bill specifies the amount of assessed value used to compute the deduction.

***Abatements for Used Equipment:*** The bill provides that certain equipment installed in an economic revitalization area or a maritime opportunity district after being used in Indiana by a person other than the tax abatement applicant is eligible for tax abatement.

***Abatement For Use Of Vacant Buildings:*** The bill allows a designating body to grant a property tax abatement deduction for not more than two years to the owner of a building that is located in an economic revitalization area and has been vacant for at least one year, if the owner or a tenant of the owner occupies the building and uses the building for commercial or industrial purposes.

***Abatement Filing Compliance:*** This bill permits a designating body to waive errors in tax abatement forms and noncompliance with filing dates.

***Redevelopment Commission Housing Program:*** This bill allows a redevelopment commission to establish a program for housing and to employ tax increment financing with respect to the program.

***EZ Investment Deduction:*** This bill provides that a taxpayer is entitled to an enterprise zone investment deduction in a military installation designated as an enterprise zone only if the deduction is approved by the military base reuse authority board.

***Utility Appeals:*** The bill adjusts the procedure for a public utility company to appeal the distributable property assessment of the DLGF to the Indiana Board of Tax Review (IBTR).

***Failure to Act Timely on an Appeal from DLGF Action:*** This bill provides that if the IBTR fails to render a decision in an appeal from an action of the DLGF, the entity that initiated the appeal has the option of waiting for an IBTR decision or requesting judicial review.

***IBTR Actions:*** This bill provides that in an appeal from a decision of a local assessing official or a property tax assessment board of appeals, the IBTR may subpoena witnesses and documents. (Current law gives the IBTR this power with respect to appeals from DLGF decisions.) It also changes responsibilities for distribution of certain notices of decision by the IBTR.

***Class Action Suits Against the DLGF:*** The bill states requirements for maintaining a class action suit against the DLGF.

***DLGF Record Certification:*** The bill allows a designee of the commissioner of the DLGF to attest copies of certain documents.

***Local Government Representation in Tax Court:*** The bill allows local government officers to hire a private attorney in proceedings before the Indiana Tax Court, subject to approval of the Attorney General.

***Tax Credits and Exemptions:*** The bill allows (1) tax abatement for prior years for the operator of a grey iron foundry in Grant County that was denied for those years; (2) a property tax exemption for prior years for a fraternity at Butler University that was denied for those years; (3) an exemption for prior years for a soccer facility; (4) a property tax exemption for a prior year for the Madame Walker Theater Center; and (5) a refund of sales tax paid in prior years for a youth baseball organization.

***Utility Tax Return Correction:*** The bill allows a water service utility to correct a prior year's utility property

tax return.

**Technical Correction:** This bill makes a technical correction to SEA 71-2006 concerning property tax payments by a storm water district to a municipality.

**Effective Date:** January 1, 2005 (retroactive); January 1, 2006 (retroactive); Upon passage; July 1, 2006.

**Explanation of State Expenditures: Maximum Levy Banking:** Beginning in CY 2007, if the provision to allow the "banking" of unused maximum levies increases or reduces levy amounts in a year then, subject to appropriation, state expenditures for Property Tax Replacement Credit (PTRC) and Homestead Credits (HSC) would also be increased or reduced.

**Library Maximum Levy Increases:** Beginning in CY 2007, if the Dubois County Contractual Library and the Jasper Public Library impose a levy up to their new maximum levy allowed in this bill, then, subject to appropriation, state expenditures for PTRC and Homestead Credits would also be increased. The maximum increase is estimated at about \$75,000.

**Fire Protection District Tax Levy:** The bill could increase the levies for fire protection districts. Subject to appropriation, the increase in expenditures for PTRC and HSC would depend on the number of property tax appeals by fire protection districts.

**Township EMS Levy:** The Local Government Tax Control Board and the DLGF may incur some additional expenses in hearing and processing the appeals. The additional expense could probably be covered with the existing level of staff and resources. PTRC would not be affected by this provision.

**Failure to Act on Appeal of Unit Budget:** The bill provides that a taxpayer who signed the statement filed to initiate an appeal of a county board of tax adjustment's action on a taxing unit's budget may appeal for judicial review if the DLGF fails to act on the appeal. The provision may result in more cases before the Tax Court which would increase administrative expenses for the court and decrease expenses for the DLGF.

**Instructions for Sales Disclosure Forms:** The DLGF must adjust the sales disclosure form to include information regarding certain property tax benefits available to owners of single-family residential property. The DLGF will be able to accomplish this task with existing resources.

**DLGF Rules for Assessment:** The bill eliminates the requirement that the DLGF's rules and instructions for determining the assessment of real property must include instructions for determining depreciation and the cost of reproducing improvements.

Real property is assessed on a market-like basis. The assessment rule (manual) requires that the assessor determine a market-related value. The means by which the value is determined is left up to the assessor. One accepted method has been to determine a value under the "cost less depreciation" method (the former assessment method) and then applying a sales factor for the neighborhood to approximate market value. The required instructions in the current rule govern this method. Costs for the manual for the 2003 reassessment are listed in the following table.

Appraisal Research Corporation contract to develop cost tables	\$122,500
Consulting contract w/Joe Beres; developer of original tables in 1970s	25,000
International Association of Assessing Officers contract to review manual	50,000
Contract w/Avalon Group for technical writing and desktop publishing	50,000
Marshall and Swift Publications licensing fee for use of cost figures (4-year license)	240,000
Printing of manual	50,000
Staff costs for DLGF staff	unknown
TOTAL	\$537,500

***Abatement For Use Of Vacant Buildings:*** The DLGF must prescribe a form for the statement of benefits which must include a description of the eligible vacant building and an estimate of the number of individuals who will be employed by the property owner. The DLGF may also adopt rules to implement the provisions of the bill. The DLGF should be able to implement the above provisions given its existing resources and staff.

***Utility Appeals:*** This bill adjusts the procedure for a public utility company to appeal the distributable property assessment of the DLGF to the IBTR.

Under existing law, within ten days after a public utility company receives the notice of the DLGF's tentative assessment, the company may file its objections to the tentative assessment with the DLGF and demand that the DLGF hold a hearing on the tentative assessment. If the public utility does not file its objections within the time allowed, the tentative assessment is final and may not be appealed. A taxpayer may appeal a DLGF final assessment to the IBTR only if the taxpayer first objected to the tentative assessment.

The bill provides that (1) the taxpayer may request a preliminary conference (and not a hearing) with the DLGF within the 10-day period, (2) the DLGF may hold a conference at their option, and (3) the utility may appeal a final determination to the IBTR regardless of whether the taxpayer objected to the tentative assessment. These provisions could result in the DLGF conducting fewer formal appeals and the IBTR processing more appeals. The specific impact is indeterminable and will depend on the number and nature of objections and appeals that result after the provisions take effect relative to the number and nature that would occur under existing law. The DLGF and the IBTR should be able to cover any additional costs given their existing resources.

***Failure to Act Timely on an Appeal from DLGF Action:*** Under current law, the IBTR has six months after a petition is filed to conduct a hearing. The IBTR must make a final determination within 45 days after the hearing. The IBTR may extend the 45-day deadline by 180 days. A failure to issue a timely order is currently construed as a final determination denying the petition. Taxpayers may appeal the final determination to the Tax Court.

This bill provides that failure to issue a timely order does not constitute notice of a final determination. In addition, the petitioner would then have the option of waiting for an IBTR decision or requesting judicial review after the final determination deadline has passed. The provision may result in fewer cases before the Tax Court, which could reduce administrative expenses for the court and decrease expenses for the DLGF.

***IBTR Actions:*** This bill provides that when a county auditor receives notice of a decision by the IBTR in an appeal from a decision by a county property tax assessment board of appeals (PTBOA) or the DLGF, the county auditor (instead of the IBTR) must distribute copies of the decision to taxing units for which the AV of the appealed items is at least 1% of the total gross certified AV of the taxing unit. This provision will reduce expenditures for the DLGF.

***Class Action Suit Against the DLGF:*** The bill provides that a class action suit against the DLGF may not be maintained in any court, including the Indiana Tax Court, on behalf of a person who has not complied with certain requirements before the certification of the class. This provision may result in fewer class action suits against the DLGF. The fiscal impact is not expected to be significant.

***DLGF Record Certification:*** Under current law, the DLGF's record is sufficient evidence in all courts or proceedings to prove an action, rule, or order if the copy is certified by the commissioner and attested to by the deputy commissioner. The DLGF no longer has a deputy commissioner. This bill would allow a designee of the DLGF commissioner to attest to the record rather than the deputy.

***Local Government Representation in Tax Court:*** Under current law, the Indiana Attorney General is required to represent township and county assessors, county auditors, and members of the county PTBOA before the Indiana Tax Court in cases concerning original determinations that were made by those officials. Under this provision, subject to approval of the Attorney General, these local officials could hire a private attorney (at local expense) to represent them before the Tax Court. This provision could reduce Attorney General expenses by an undetermined amount.

***Explanation of State Revenues: Reassessment of Sold Lots:*** The state levies a small tax rate for State Fair and State Forestry. Any delay in the addition of AV to the tax base will delay increases in property tax revenue for these two funds.

***Abatements for Used Equipment:*** If there is an increase in investment because of the changes in this bill, the new property would, at some point, be placed on the tax rolls and the State Fair and State Forestry funds would receive increased revenues. If the investment would have been made with or without the abatement, then increased revenues to the State Fair and State Forestry funds would be foregone until the property is placed on the tax rolls.

***Utility Appeals:*** Adjusting the appeal process could result in a change in the overall state AV. Any change in utility AV will change the property tax revenue for State Fair and State Forestry.

***Tax Credits and Exemptions - Hartford City Little League Sales Tax Refund:*** This bill provides that an entity that:

- (1) is an entity that was established for the purpose of providing youths with the opportunity to play supervised and organized baseball against other youths;
- (2) before 2002 qualified as a nonprofit corporation under Indiana law;
- (3) during 2002, 2003, 2004, and 2005 did not maintain its status as a nonprofit corporation under Indiana law due to the failure to make certain filings;
- (4) regained its status as a nonprofit corporation beginning in 2006; and
- (5) was assessed by the Department of State Revenue for delinquent state gross retail taxes owed for 2002, 2003, 2004, and 2005 and has paid those assessments;

is entitled to a refund by the DOR for any Sales Taxes which were assessed for the period that this entity failed

to maintain nonprofit status.

The only entity known to qualify for a refund under this section of the bill is the Hartford City Little League. The refund is estimated to be approximately \$5,000. This section expires on July 1, 2008.

**Explanation of Local Expenditures: *County Special Nonreverting Fund:*** The bill permits a county auditor to establish a special nonreverting fund to receive additional property taxes attributable to a contract for the discovery of property that has been undervalued or omitted from assessment. If funds are not budgeted for payment of services performed under a contract for the discovery of property that has been undervalued or omitted from assessment, the county auditor may create a special nonreverting fund in which the county treasurer may deposit the amount of taxes, including penalties and interest, after credits, that result from additional assessments on undervalued or omitted property collected from all taxing jurisdictions in the county. The fund remains in existence during the term of the contract. Distributions made from the fund must be made only for refunds due to taxpayers as a result of the contract and contract fees and other costs related to the contract. After these payments have been made and the contract has expired, the county auditor must distribute money remaining in the fund to the appropriate taxing units.

**Amendments to Certified Statements:** After the county auditor sends a certified statement to each political subdivision pertaining to property tax information and before the DLGF certifies its action to the political subdivision, the county auditor may amend the information concerning AV that was included in the earlier certified statement. The county auditor must send an amended certified statement to each political subdivision affected by the amendment and the DLGF. Before the county auditor makes an amendment, the county auditor must provide an opportunity for public comment on the proposed amendment at a public hearing. The county auditor must also give notice of the hearing and must also notify the county assessor. However, the county auditor is not required to hold a public hearing if the amendment is proposed to correct a mathematical error made in determining AVs, if the auditor is adding omitted property discovered after the certified statement was sent, or if the auditor determines that the amendment will not result in an increase in the tax rate. These provisions will have an impact on local administrative expenditures; however, the specific impact is indeterminable and will depend on the number and nature of amendments that county auditors make to certified statements.

**IBTR Actions:** The bill provides that when a county auditor receives notice of a decision by the IBTR in an appeal from a decision by a PTBOA or the DLGF, the county auditor (instead of the IBTR) must distribute copies of the decision to taxing units in certain circumstances. This provision will increase expenditures for counties.

**Explanation of Local Revenues: *Maximum Levy Banking:*** Prior to 2004, civil taxing unit maximum permissible levies were calculated each year by multiplying the previous year's maximum levy by the six-year average increase in Indiana nonfarm personal income (limited to 6% with some exceptions). A taxing unit that did not use all of its maximum levy in a year never lost the unused amount from its base. Under SEA 1 - 2004, the calculation for the maximum levies was changed so that the new maximum levy is equal to the previous year's actual levy rather than the maximum levy. This change removed the previously unused portion of maximum levies from the base and eliminated any "banking" of unused levy authority in the future.

This bill would partially restore the old maximum levy calculation and the "banking" of unused levy authority beginning with taxes payable in 2007. One-half of the previous year's unused levy authority would be available for use in the current year. Maximum levy authority that was lost in a year prior to 2007 would not be restored

by this provision. This provision would only affect maximum levies going forward.

This provision could have one of two effects, depending on the taxing unit. First, some units probably levy their maximum amount each year even if it is not needed so that the unit does not lose that levy authority. For these units, this provision could result in lower levies in years when the unit does not need the entire levy. Second, some units levy only what they need to levy, regardless of the fact that unused levy authority is lost. For these units, this provision could result in higher levies in years when the unit decides to take advantage of their unused authority.

In all cases, if a unit elects to use previously unused levy authority in a specific year, then taxpayers would be faced with a larger than normal increase in the tax rate in that year. However, if the unit has unused levy authority, the unit's tax rate growth might have been nominal up until the year that the unit uses the banked levy amount under this provision.

**Maximum Levy Banking - Background:** Not including welfare funds, the unused portion of maximum levies totaled \$354 M in CY 2002 from 1,431 civil units, school transportation, and township fire funds. The CY 2003 unused maximum levy was \$251 M from 1,455 units and funds. In CY 2004, the first year of the new maximum levy calculation, the unused maximum levy was \$77 M from 826 units and funds. In CY 2005, the unused maximum levy was \$87 M from 505 units and funds. In CY 2004 and CY 2005, this unused levy authority was lost. (The unit counts only include units where the unused maximum levy was at least 1% of the total maximum levy. The unused maximum levy amounts include all units and funds except welfare.)

**Maximum Levy Appeals:** Currently, a civil taxing unit's maximum levy each year equals the previous year's actual levy multiplied by the six-year average growth in Indiana nonfarm personal income. The growth factor (AVGQ) is 3.9% in 2006. The AVGQ is appealable to the DLGF if the growth in assessed value for a unit is at least 3% higher than the AVGQ. The bill would reduce the 3% appeal threshold to 2%.

The change would affect those fast-growing taxing units that are not growing fast enough to trigger the current AVGQ appeal. The amount of potential additional levies under this provision is unknown.

**Library Maximum Levy Increases:** This bill increases the maximum levies for the Dubois County Contractual Library (Dubois) and the Jasper Public Library (Jasper) in CY 2007. The 2006 maximum levies were \$348,365 for Jasper and \$162,679 for Dubois. This bill sets the 2007 maximum levies at \$524,500 for Jasper and \$386,000 for Dubois. Assuming a current law 4% increase in maximum levies in 2007, this bill would increase these maximum levies by about \$162,200 for Jasper and \$217,500 for Dubois.

**Fire Protection District Tax Levy:** The bill could increase property tax levies for fire protection districts if the district (1) expanded its territory after 1998 and (2) has had at least a 50% increase in assessed valuation from CY 2000 to CY 2005 (The CY 2000 AV is multiplied by 3 to reflect the change from 1/3 True Tax Value to True Tax Value). The maximum amount of the appeal is \$425,000. There are about 47 fire protection districts with operating levies of about \$18.2 M. Approximately 35 of the districts have had a growth in assessed value of over 50% between CY 2000 and CY 2005. The number of districts that expanded their territories after 1998 is not known.

**Township EMS Levy:** Under this provision, Middlebury Township in Elkhart County township may appeal to the DLGF for an excessive levy in 2007 to pay the costs of paramedic services. The DLGF could refer the



appeal to the state's Local Government Tax Control Board for a recommendation. The DLGF would set the amount of the excessive levy, if any.

An excessive levy, if approved, would increase the township's total property tax levy and tax rate. The amount of the increase would depend on the request by the township and the response by the DLGF.

*Background Information:* The levy for the Middlebury Township Emergency Medical Services Fund for CY 2006 is \$140,331 and the budget is \$462,339.

**Hospital Funding:** This provision would permit the governing board of a county hospital to request support from the county to cover qualified emergency medical expenses. The support would be via an appropriation from the county general fund or from a countywide property tax levy from a separate fund with a rate not exceeding \$0.06 per \$100 AV. The total 2005 net assessed value was \$269.4 B. The full \$0.06 tax rate, if imposed in every county, would generate approximately \$161 M. The levy could not exceed the hospital's qualified emergency medical expenses. A levy for this purpose would be subject to maximum levy limitations, so no additional property taxes could be raised. If a county imposes a levy under this provision, then it would have to reduce other county levies to stay within the maximum levy limit. This provision would not change total county revenues. It would only allow the county to choose to redirect some of its resources.

**County Special Nonreverting Fund:** The bill permits a county auditor to establish a special nonreverting fund to receive additional property taxes attributable to a contract for the discovery of property that has been undervalued or omitted from assessment. Taxing units would receive any money that remains in the fund after required payments are made. The specific impact is indeterminable.

**Delinquent Tax Collections:** Under current law, property tax collections that exceed 100% of a taxing unit's certified levy must be deposited into the unit's levy excess fund. Money in this fund may only be used to pay tax refunds and to reduce future tax levies. This provision would exclude delinquent tax collections from deposit in the excess levy fund.

If a taxing unit's tax collections, including delinquent tax collections, exceed 100% of the levy, then this provision would result in more spendable money for the unit and less money used for levy reduction. However, if a taxing unit's tax collections, including delinquent tax collections, do not exceed 100% of the levy, then this provision would have no impact.

The total levy excess fund amount that was used to reduce property tax levies in 2005 was \$25.6 M. The amount of delinquent tax collections in the \$25.6 M excess levy is unknown.

**Certified Assessed Value:** Prior to 2004, it was common practice for county auditors to keep the AV of certain assessments under appeal separated from other property on the tax duplicate. This AV was not considered in the county auditor's certification of AV for use in fixing tax rates. SEA 1 - 2004 removed county auditors' authority to reduce the certified AV to compensate for appeals.

Beginning with property taxes paid in CY 2007, this bill would allow county auditors to reduce a taxing unit's certified AV only to adjust for reduced tax collections that will result from successful assessment appeals. The reduction would be limited to the lesser of (1) 2% of the unit's AV or (2) the total amount of reductions for successful appeals applied in the previous year.

When assessed value is removed from the AV certification, the tax rate is increased in order to generate the desired certified levy. When tax bills are calculated, the tax rate is applied to all AV, including the amount removed from certification. This generally results in a larger charged levy (or abstract levy). Some of this abstract levy may not be collected due to successful appeals. If the amount of AV removed from certification is too low, then the tax rate is set too low and the unit suffers a revenue shortfall. However, if too much AV is removed, then the tax rate is set too high, generating too much property tax revenue. Taxing units may not spend more than 100% of their certified levies. Collections over 100% of certified levy must be deposited into the Levy Excess Fund. Money in this fund may only be used to pay tax refunds and to reduce future tax levies.

***Conforming Changes Related To Trending:*** Under current law, the base value of each TIF district is adjusted to neutralize the effect of each general reassessment. Under this provision, the base AV would also be adjusted each year to neutralize the effect of annual adjustments. Similarly, the school capital projects fund tax rate would be adjusted each year to neutralize the effect of annual adjustments.

***Reassessment of Sold Lots:*** Under existing law, farmland is assessed at a lower rate (currently \$880 per acre multiplied by a productivity factor) than the rate at which residential, commercial, or industrial property is assessed. If the land is transferred from agricultural land to a developer and is subdivided into lots, the land may not be assessed until the next change of title. Typically, the title is transferred to a residential, commercial, or industrial user, but it could be transferred to another developer. Current law also requires that the land would be re-assessed if it is re-zoned. It is possible under current law, that the developer could still own the land when it is re-zoned. A case was brought before the Tax Court which determined that the law was ambiguous and that the land should be reassessed when the land is re-zoned regardless of who owned it.

Regardless of whether the land has been re-zoned, the bill provides that in the case of land in a developer's inventory (whether it be the initial developer or not), the land may not be reassessed until the next assessment date following the earlier of the following dates: (1) the date on which land is transferred to a non-developer; (2) the date on which construction begins; or (3) the date on which the building permit is issued.

The impact of the bill will be to delay the addition of the land's AV as residential, commercial, or industrial land to the tax rolls, which will result in lower overall AV until the land is reassessed from agricultural to residential, commercial, or industrial. The delays would also delay a shift of the property tax burden from all taxpayers to the owners of agricultural land in the form of an increased tax rate.

Total local revenues, except for cumulative funds, would not be affected. The delay in increasing the AV will delay any increase in revenue that cumulative funds would experience because of the increase in AV that would be experienced when the land is reassessed from agricultural land to residential, commercial, or industrial. The delay would equal the product of the fund rate multiplied by the difference in AV resulting from the reassessment.

***Deadline for Property Tax-Related Filings:*** The bill changes the annual deadline for filing for various property tax deductions and exemptions from May 10<sup>th</sup> to June 10<sup>th</sup>. It specifies when returns, other documents, and property tax payments are considered to be received for purposes of property tax statutes containing filing or payment deadlines. County auditors must currently certify net assessed values to taxing units by August 1.

In addition, some personal property exemption applications must currently be filed with the personal property return. The return must be filed by May 15<sup>th</sup>, or June 14<sup>th</sup> with an extension. Amended returns may be filed for up to six months past the original due date, or the extended due date if an extension was granted. This bill

would require all personal property exemption applications to be filed by June 10<sup>th</sup> of each year, regardless of whether the return is filed under extension or if the return is an amended return.

***Personal Property Assessment Error Correction:*** Under this provision, local assessing officials would be required to adjust personal property assessments and process refunds or credits if a taxpayer overreporting error is discovered during a review regarding potential undervalued or omitted property. This provision could increase refunds which in turn reduce property tax collections in the current year.

***Property Tax Investment Deduction:*** Under current law, the increase in AV from certain real and personal property additions may qualify for property tax deductions over a period of three years if the property owner creates or retains jobs because of the project. The deduction applies to property that is first assessed on March 1 of 2006, 2007, 2008, or 2009.

This bill would exclude personal property located in the following facilities: golf courses; country clubs; massage parlors; tennis clubs; racetracks; package liquor stores; residential property unless it is low income or in a residentially distressed area; or facilities for skating, racquet sport, hot tubs, suntans, retail food and beverage sales, automobile sales or service, or other retail facilities. These facilities may not receive real property abatements under current law. The change would be retroactive and would apply to the March 1, 2006, assessment date.

***Personal Property Tax Abatement - 30% Floor:*** Under current law, new manufacturing, research and development, and logistic equipment may qualify for property tax abatements. The abatement is equal to the property's AV multiplied by a percentage according to a schedule.

Under this provision, if the taxpayer is subject to the 30% minimum valuation floor, the property's AV used in the abatement calculation would equal (1) the new property's AV without regard to the assessment floor multiplied by (2) the ratio of the taxpayer's total AV with the floor divided by the taxpayer's total AV without regard to the assessment floor.

*Example:* A taxpayer's new property AV without regard to the 30% floor is \$100,000. The total cost of all of the taxpayer's property in the taxing district is \$1,000,000, and the total AV without regard to the assessment floor is \$200,000. Under current law in this example, the taxpayer's total taxable AV would be \$300,000 (because of the 30% floor). The AV of the new property used in the abatement calculation would be \$100,000. According to the bill, the AV of the new property used in the abatement calculation would be \$150,000 ( $\$100,000 \text{ no floor AV} \times [\$300,000 \text{ total floor AV} / \$200,000 \text{ total no floor AV}]$ ).

The value of abatements would increase for those taxpayers who are subject to the 30% valuation floor. The impact would depend on a combination of (1) the level of assessments in relation to the 30% floor for taxpayers with abatements and (2) the value of the abatements. No deference is given as to whether the assessed value (without the floor) of just the new property is at or below 30%.

An increase in the value of abatements would reduce total AV causing a shift of part of the property tax burden from the abated taxpayers to all taxpayers via an increased tax rate. Property tax revenues would be reduced for cumulative funds and other funds with fixed tax rates.

***Abatements for Used Equipment:*** Under current law, only new manufacturing, research and development, and logistic equipment may qualify for property tax abatements. The abatements are available for up to ten years.

Beginning with taxes paid in 2007, this proposal would allow local designating bodies to grant abatements on used (as well as new) equipment if the equipment was never used by the applicant in Indiana.

If there is an increase in development because of this proposal, the new property would, at some point, be placed on the tax rolls. This could help spread the property tax burden and could possibly reduce some tax rates. However, if one assumes that the investment would be made with or without the abatement, an increase in abatements could also cause a delay in the shift of the property tax burden from all taxpayers to the owners of the new property until the property is placed on the tax rolls. In all cases, the granting of an abatement is a local decision. The impact would depend on the number and value of new abatements that might be granted because of this proposal.

***Abatement For Use Of Vacant Buildings:*** The owner of an eligible vacant building located in an economic revitalization area is entitled to a deduction from the AV of the building if the property owner or tenant occupies the eligible vacant building and uses it for commercial or industrial purposes.

The designating body must adopt a resolution approving the deduction and must determine the number of years for which a property owner is entitled to a deduction. The deduction may not be allowed for more than two years. The county auditor may ask the township assessor to review the application before making the deduction.

The amount of the deduction the property owner is entitled to receive equals the AV of the building multiplied by the percentage set forth in the table below. The deduction is limited to the annual lease or rent amount sought while the building was vacant.

<b>Abatement For Use Of Vacant Buildings Percent of Assessed Value Abated</b>		
	<b>Length of Abatement</b>	
	<b>1 Year</b>	<b>2 Years</b>
1 <sup>st</sup> Year	100%	100%
2 <sup>nd</sup> Year	0%	50%
3 <sup>rd</sup> Year		0%

Additional deductions reduce the AV tax base. This reduction causes a shift of the property tax burden from taxpayers receiving the deductions to all taxpayers in the form of an increased tax rate. The specific impact of the bill is indeterminable and will depend on the number and nature of approved deductions.

Total local revenues, except for cumulative funds, would remain unchanged. The revenue for cumulative funds would be reduced by the product of the fund rate multiplied by the deduction amount applicable to that fund.

***Abatement Filing Compliance:*** Under this provision, a designating body may, by resolution, waive noncompliance in the filing of tax abatement forms if (1) the compliance issue involves filing dates, signatures, or mathematical errors and (2) the taxpayer otherwise qualifies for the deduction. A deduction under this provision may be applied in a subsequent year if application in the current year would cause a delay in tax

billing or an undue burden on a taxing unit. The fiscal impact would depend on local action.

***Redevelopment Commission Housing Program:*** The bill allows redevelopment commissions in counties other than Marion to establish under certain conditions housing programs by resolution in allocation areas where:

- (1) At least one-third of the parcels are vacant;
- (2) 75% of the area is, or will be, used for residential purposes;
- (3) At least one-third of the residences in the area were constructed before 1941; and
- (4) At least one-third of the parcels:
  - (a) Have dwellings that are not permanently occupied;
  - (b) Are subject to an order regarding the correction of code violations or unsafe conditions;
  - (c) Have two or more delinquent property tax payments; or
  - (d) Are government-owned.

The total area within the allocation area must not exceed 150 acres. The program must be approved by the municipal legislative body or county executive. The commission must hold hearings in the neighborhood affected. A special tax may be levied to accomplish the housing program.

The base AV of the allocation area would be equal to the AV of real property on the assessment date that precedes the date on which the allocation area is established. Property taxes paid on valuation in the allocation area that exceeds the base valuation would be deposited into an allocation fund.

Money in the allocation fund may be used for:

- (1) Construction, rehabilitation, or repair of residential units and infrastructure;
- (2) Property acquisition;
- (3) Property demolition;
- (4) Financial assistance to low-income families for the purchase or lease of a residence, either directly or through a neighborhood development corporation; and
- (5) Property tax replacement credits in the allocation area.

The proposal would permit the commission to grant property tax replacement credits to taxpayers in the allocation area equal to the percentage of state property tax replacement credits in the taxing district that contains the allocation area. These credits could be paid only if the appropriate county or municipal legislative body establishes the credit by ordinance. The credit would reduce the net proceeds available to the allocation area.

***Enterprise Zone (EZ) Investment Deduction:*** The bill provides that the deduction for investment in an EZ under the jurisdiction of a military base reuse authority must be approved by the authority before the taxpayer is entitled to the deduction. The additional approval requirement could potentially reduce the number of property tax deductions that would otherwise be claimed for certain real and personal property investment in the EZs located at Ft. Benjamin Harrison or the Indiana Army Ammunition Plant in Clark County. However, any reduction would depend on action by the reuse authority boards administering these two EZs.

***Background:*** The EZ Investment Deduction allows the increase in AV from "qualified investment" in real and/or personal property of an EZ business to be deducted for up to ten years. A taxpayer must apply to the county auditor to claim the deduction for a particular year. The county auditor would determine whether the taxpayer is eligible for the deduction. Qualified investment at an EZ location includes: (1) purchase of a building, new manufacturing or production equipment, or new computers and related office equipment; (2)

costs associated with the repair, rehabilitation, or modernization of an existing building and related improvements; (3) onsite infrastructure improvements; (4) construction of a new building; and (5) costs associated with retooling existing machinery. The bill applies to the two EZs in the state that are under the jurisdiction of a military base reuse authority board - the Ft. Benjamin Harrison Reuse Authority and the Indiana Army Ammunition Plant Reuse Authority.

***Tax Credits and Exemptions - Utility Tax Credit:*** Under current law, a public utility must self-report the assessed value of its distributable property to the DLGF. The DLGF sends a notice of tentative assessment to the taxpayer based on the return and any changes made by the DLGF. The utility may object to the tentative assessment within 10 days of receiving the notice. The assessment becomes final if no objection is filed within the 10-day period. There are no provisions for a public utility company to file an amended return. The DLGF apportions the distributable property valuation among the taxing districts in which the utility has property.

Under this provision, the DLGF would accept the assessment listed on a water utility's amended 2005 payable 2006 return if (1) the return has already been filed, (2) the amended return is correct, and (3) the assessed value on the amended return is less than the original assessment.

The taxpayer would still be required to pay the full amount of the tax due on the original return in 2006, but would receive a credit for the overpayment in 2007. The county auditor would reduce certified assessed values in 2007 to increase the tax rate so that the credit will not cause a revenue shortfall for local units. This creates a shift in 2007 from the utility taxpayer to all taxpayers. However, the utility's over-assessment under current law caused a shift from all taxpayers to the water utility.

The credit amount was estimated based on assessed values provided by the taxpayer and 2005 tax rates. If the values are different or if the rates are significantly different in 2006, then the actual credit would deviate from this estimate. The total AV could be reduced by \$31.6 M, from \$70.7 M to \$39.1 M. The assessment (and assessment reduction) is distributed to seven taxing districts, six in Allen County and one in Whitley County. The total credit is estimated at \$650,000.

***Tax Credits and Exemptions - Foundry Abatement:*** This provision would retroactively grant property tax abatements to a Grant County taxpayer that operates a grey iron foundry. The abatements would be granted for taxes payable beginning in 2001 if the taxpayer applied in 2001 for the deductions and the deductions were denied by the DLGF. The taxpayer would be entitled to file refund claims for taxes paid on the abatement amounts. The total net tax that would be refunded under this provision is estimated at \$150,000. This refund would result in a reduction of property tax revenues for the taxing units that serve the taxpayer in the year in which the refund is paid.

***Tax Credits and Exemptions - Butler University Fraternity Exemption:*** This provision would retroactively provide property tax exemptions to a fraternity at Butler University that failed to timely file applications for exemption. The exemptions would be applicable to taxes payable in 2001, 2002, 2003, and 2004. If taxes have already been paid for an affected year, the exemption would result in a refund of taxes which would reduce overall tax revenues in the year refunded.

***Tax Credits and Exemptions - Zionsville Youth Soccer Association Exemption:*** HEA 327 - 2005 allows a youth soccer organization to claim a refund of property taxes paid that were due in 2000 to 2004 if the tax liability exceeded \$33,000. The Zionsville Youth Soccer Association's refund claim was for more than \$33,000 of tax liability and penalties. The actual tax liability was less than \$33,000 but greater than \$30,000. This

provision clarifies that the tax liability would have to have been greater than \$30,000 (and not \$33,000) to qualify for the refund.

***Tax Credits and Exemptions - Madame Walker Theater Exemption:*** This provision would grant an exemption to an organization in Marion County that (1) is dedicated to nurturing and celebration of the arts and culture from an African-American perspective and provides a forum for arts and cultural programming directed toward cross-cultural appreciation and (2) filed a tax exemption application in 2004 but failed to attend the exemption hearing held by the county PTBOA. The exemption would be allowed at the same percentage that was granted for a tax exemption application filed in 2005.

If the taxpayer paid the tax due in absence of the exemption, then the county would have to refund the tax paid. Property tax refunds reduce current year property tax collections in the current year.

**State Agencies Affected:** Department of Local Government Finance; Local Government Tax Control Board; Indiana Board of Tax Review; Indiana Tax Court; Attorney General; State Forestry; and State Fair.

**Local Agencies Affected:** All local civil taxing units and school corporations; Local assessing officials; County auditors.

**Information Sources:** Local Government Database; Department of Local Government Finance.

**Fiscal Analyst:** Bob Sigalow, 317-232-9859; Chuck Mayfield, 317-232-4825; Bernadette Bartlett, 317-232-9586.